

To: Gray, David[gray.david@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]
From: Durant, Jennah
Sent: Wed 8/26/2015 2:13:47 PM
Subject: FW: Santa Fe Reporter inquiry on CWR and Cement Creek

This is OW's response to the Santa Fe Reporter's first question about Cement Creek and its status before/after the Clean Water Rule.

From: Loop, Travis
Sent: Tuesday, August 25, 2015 6:52 PM
To: Peck, Gregory
Cc: Kopocis, Ken; Lee, Monica; Neugeboren, Steven; Mylott, Richard; Ward, W. Robert; Logan, Paul; Durant, Jennah
Subject: Re: GKM inquiry on CWR and Cement Creek

This is the answer for this one:

There is no indication that there has been a formal jurisdictional determination for Cement Creek, which would have been conducted at the request of a landowner. However, Cement Creek is a perennial stream and it is likely to be covered by the Clean Water Act. That would not change under the Clean Water Rule.

Travis Loop

Communications Director for Water

U.S. Environmental Protection Agency

Phone: 202.870.6922

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On Aug 25, 2015, at 3:12 PM, Peck, Gregory <Peck.Gregory@epa.gov> wrote:

Agree with Ken because "relatively permanent" tributaries are jurisdictional under the plurality decision – but it's probably worth making clear that the agencies have not conducted a formal jurisdictional determination - which are done at the request of the landowner.

Gregory E. Peck

Chief of Staff
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

202-564-5700

From: Kopocis, Ken
Sent: Tuesday, August 25, 2015 3:08 PM
To: Lee, Monica; Loop, Travis; Neugeboren, Steven
Cc: Peck, Gregory; Mylott, Richard; Ward, W. Robert; Logan, Paul
Subject: RE: GKM inquiry on CWR and Cement Creek

Then I think we can say that Cement Creek is a perennial stream and is currently considered to be covered by the Clean Water Act. Its status will not change under the new rule.

Do we know whether it is listed as impaired?

From: Lee, Monica
Sent: Tuesday, August 25, 2015 1:44 PM
To: Loop, Travis; Neugeboren, Steven
Cc: Peck, Gregory; Kopocis, Ken; Mylott, Richard; Ward, W. Robert; Logan, Paul
Subject: RE: GKM inquiry on CWR and Cement Creek

From Rich - Cement Creek is considered a perennial stream and covered under the CWA.

From: Loop, Travis
Sent: Tuesday, August 25, 2015 10:30 AM
To: Neugeboren, Steven; Lee, Monica
Cc: Peck, Gregory; Kopocis, Ken; Mylott, Richard; Ward, W. Robert; Logan, Paul
Subject: Re: GKM inquiry on CWR and Cement Creek

Adding Monica

Travis Loop

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On Aug 25, 2015, at 12:25 PM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

If you wanted any followup from the region I've added them to greg's response.

From: Peck, Gregory

Sent: Tuesday, August 25, 2015 12:23 PM

To: Loop, Travis; Kopocis, Ken; Neugeboren, Steven; Mylott, Richard

Subject: RE: GKM inquiry on CWR and Cement Creek

We don't have detailed information about Cement Creek and there is no indication that a formal jurisdictional determination has been done for this waterbody. Having looked at photographs of Cement Creek, however, it seems very likely that the Creek would be jurisdictional under existing regulations, and that would not change under the new rule.

Gregory E. Peck

Chief of Staff

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From: Loop, Travis
Sent: Tuesday, August 25, 2015 12:15 PM
To: Peck, Gregory; Kopocis, Ken; Neugeboren, Steven; Mylott, Richard
Subject: Fwd: GKM inquiry on CWR and Cement Creek

OW, OGC and R8 - wondering how/if we should answer this question on CWA coverage of Cement Creek and if Clean Water Rule changed its status.

Travis Loop

Communications Director for Water

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Begin forwarded message:

From: "Durant, Jennah" <Durant.Jennah@epa.gov>
Date: August 25, 2015 at 10:39:56 AM EDT
To: "Loop, Travis" <Loop.Travis@epa.gov>, "Daguillard, Robert" <Daguillard.Robert@epa.gov>
Subject: GKM inquiry on CWR and Cement Creek

Hi Travis and Robert--

I am in the JIC for the Gold King Mine spill, trying to close out some press inquiries. Can you help with this one?

Prior to the Clean Water Rule this summer, would Cement Creek have been protected under the Clean Water Act? Is it included now?

Thanks for your help.

Jennah Durant